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Agenda item 153

# Establishment of an international criminal court

## Report of the Sixth Committee

*Rapporteur:* Mr. Rytis **Paulauskas** (Lithuania)

## I. Introduction

1. At its 3rd plenary meeting, on 15 September 1998, the General Assembly, on the recommendation of the General Committee, decided to include the item entitled "Establishment of an international criminal court" in the agenda of its fifty-third session, pursuant to Assembly resolution 52/160 of 15 December 1997, and to allocate it to the Sixth Committee.

2. The Sixth Committee considered the item at its 9th to 12th and 35th meetings, on 21 and 22 October and on 24 November 1998. The views of the representatives who spoke during the Committee's consideration of the item are reflected in the relevant summary records (A/C.6/53/SR.9–12 and 35).

3. For its consideration of the item, the Committee had before it the following documents:

(a) Note by the Secretary-General on the establishment of an international criminal court (A/53/387);

(b) Letter dated 22 July 1998 from the Permanent Representative of Austria to the United Nations addressed to the Secretary-General (A/53/189);

(c) Letter dated 3 November 1998 from the Permanent Representative of Turkey to the United Nations addressed to the Secretary-General (A/53/640).

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## II. Consideration of draft resolution A/C.6/53/L.9 and Rev.1

4. At the 29th meeting, on 13 November, the Vice-Chairman of the Sixth Committee, the representative of the Netherlands, on behalf of the Bureau, introduced a draft resolution entitled "Establishment of an international criminal court" (A/C.6/53/L.9).

5. The Committee also had before it a statement of the programme budget implications of draft resolution A/C.6/53/L.9, submitted by the Secretary-General in accordance with rule 153 of the rules of procedure of the General Assembly (A/C.6/53/L.15).

6. At the 35th meeting, on 24 November, the representative of the Netherlands introduced a revised draft resolution (A/C.6/53/L.9/Rev.1), which contained the following changes:

(a) In the fourth preambular paragraph, the words "and growing" had been deleted from the phrase "significant and growing number of States";

(b) In the fifth operative paragraph, the words "including the preparation of working documents, if so requested by the Preparatory Commission" had been replaced by the words "not including the preparation of working documents".

7. The Committee had before it a statement of the programme budget implications of draft resolution A/C.6/53/L.9/Rev.1, submitted by the Secretary-General in accordance with rule 153 of the rules of procedure of the General Assembly (A/C.6/53/L.21).

8. At the same meeting, the Committee adopted draft resolution A/C.6/53/L.9/Rev.1 without a vote (see para. 9).

## III. Recommendation of the Sixth Committee

9. The Sixth Committee recommends to the General Assembly the adoption of the following draft resolution:

**Establishment of an international criminal court**

*The General Assembly*,

*Recalling* its resolutions 47/33 of 25 November 1992, 48/31 of 9 December 1993, 49/53 of 9 December 1994, 50/46 of 11 December 1995 and 51/207 of 17 December 1996,

*Also recalling* its resolution 52/160 of 15 December 1997, in which it decided to hold the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court at Rome from 15 June to 17 July 1998,

*Expressing satisfaction* at the completion of the mandate of that resolution by the adoption of the Rome Statute of the International Criminal Court,[1] at the headquarters of the Food and Agriculture Organization of the United Nations in Rome on 17 July 1998, taking note of the opening for signature of the Statute in Rome, on 17 July 1998 until 17 October 1998, and thereafter in New York at United Nations Headquarters until 31 December 2000, and also taking note of the Final Act of the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court done at Rome on 17 July 1998,[2]

*Noting* that a significant number of States have signed the Rome Statute,

[1] See A/CONF.183/9.

[2] A/CONF.183/10.

*Emphasizing* the need to make the necessary arrangements for the commencement of the functions of the Court in order to ensure its effective operation,

*Noting in particular* that the Conference decided to establish a Preparatory Commission for the Court, consisting of representatives of States that have signed the Final Act of the Conference and other States that were invited to participate in the Conference,

*Also noting* that the Conference requested the Secretary-General to convene the Preparatory Commission at Headquarters as early as possible, at a date to be decided by the General Assembly,

*Recalling* the mandate of the Preparatory Commission with regard to the preparation of proposals for practical arrangements for the establishment and coming into operation of the Court, including, before 30 June 2000, the finalization of the draft texts of the Rules of Procedure and Evidence and of the Elements of Crimes,

*Recognizing* the need for making available adequate resources and secretariat services to the Preparatory Commission in order to enable it to discharge its functions efficiently and expeditiously,

1. *Acknowledges* the historic significance of the adoption of the Rome Statute of the International Criminal Court;[1]

2. *Expresses its deep appreciation and gratitude* to the Government of Italy for hosting the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court in Rome;

3. *Calls upon* all States to consider signing and ratifying the Rome Statute, and encourages efforts aimed at promoting awareness of the results of the Conference and of the provisions of the Rome Statute;

4. *Requests* the Secretary-General to convene the Preparatory Commission to meet, in accordance with resolution F adopted by the Conference,[2] in order to carry out the mandate of that resolution, and, in that connection, to discuss ways to enhance the effectiveness and acceptance of the Court, from 16 to 26 February 1999, from 26 July to 13 August 1999 and from 29 November to 17 December 1999;

5. *Also requests* the Secretary-General to make available to the Preparatory Commission secretariat services, not including the preparation of working documents, to enable it to perform its functions;

6. *Requests* the Secretary-General to invite, as observers to the Preparatory Commission, representatives of organizations and other entities that have received a standing invitation from the General Assembly, pursuant to its relevant resolutions,[3] to participate, in the capacity of observers, in its sessions and work, and also to invite as observers to the Preparatory Commission representatives of interested regional intergovernmental organizations and other interested international bodies, including the international tribunals for former Yugoslavia and Rwanda;

7. *Notes* that non-governmental organizations may participate in the work of the Preparatory Commission by attending its plenary and its other open meetings, in accordance with the rules of procedure to be adopted by the Commission, receiving copies of the official documents and making available their materials to delegates;

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[3] Resolutions 253 (III), 477 (V), 2011 (XX), 3208 (XXIX), 3237 (XXIX), 3369 (XXX), 31/3, 33/18, 35/2, 35/3, 36/4, 42/10, 43/6, 44/6, 45/6, 46/8, 47/4, 48/2, 48/3, 48/4, 48/5, 48/237, 48/265, 49/1, 49/2, 50/2, 51/1, 51/6, 51/204 and 52/6.

8. *Requests* the Secretary-General to take steps in order to expand the mandate of the trust fund established in Assembly resolution 51/207 for voluntary contributions towards meeting the cost of participation in the work of the Preparatory Commission of the least developed countries, and encourages States to contribute voluntarily to this trust fund;

9. *Also requests* the Secretary-General to take steps to expand the mandate of the trust fund established in Assembly resolution 52/160 for voluntary contributions towards meeting the cost of participation in the work of the Preparatory Commission of those developing countries not covered by the trust fund referred to in paragraph 8, above, and invites States to contribute voluntarily to the trust fund;

10. *Further requests* the Secretary-General to report to the General Assembly at its fifty-fourth session on the implementation of the present resolution;

11. *Decides* to include in the provisional agenda of its fifty-fourth session the item entitled "Establishment of the International Criminal Court".